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11 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

13 ALEKSANDAR KAVCIC, PH.D.,

14 Plaintiff,

15 v.

16 BROADCOM INC.,

17 Defendant.

Case No. 3:20-CV-01246-MMC

**DEFENDANT'S ANSWER,  
AFFIRMATIVE DEFENSES, AND  
COUNTERCLAIMS TO PLAINTIFF'S  
COMPLAINT**

**ANSWER TO COMPLAINT**

Defendant Broadcom Corporation,<sup>1</sup> by and through its undersigned counsel, respectfully submits this Answer and Affirmative Defenses to the Verified Complaint for Declaratory Judgment (“Complaint”) (Dkt. No. 23), filed April 23, 2020, by Plaintiff Aleksandar Kavcic, Ph.D. (“Dr. Kavcic” or “Plaintiff”).

The headings below track those used in the Complaint and are for convenience only. They do not constitute any part of Defendant’s Answer to the Complaint or any admission by Defendant as to the truth of the matters asserted. Defendant further states that anything in the Complaint that is not expressly admitted is hereby denied.

**NATURE OF THE ACTION**

1. Defendant admits the Complaint is styled as an action for declaratory judgment by Plaintiff Aleksandar Kavcic, PhD. Defendant denies any remaining allegations set forth in Paragraph 1.

2. Defendant admits that United States Patent No. 6,201,839 is titled “Method and Apparatus for Correlation-Sensitive Adaptive Sequence Detection,” lists Aleksandar Kavcic and Jose M. F. Moura as the purported inventors, and bears an issue date of March 13, 2001; and that United States Patent No. 6,438,180 is titled “Soft and Hard Sequence Detection In ISI Memory Channels,” lists Aleksandar Kavcic and Jose M. F. Moura as the purported inventors, and bears an issue date of August 20, 2002. Defendant admits that Plaintiff refers to U.S. Patent Nos. 6,201,839 and 6,438,180 collectively as “the Detector Patents” elsewhere in the Complaint. For convenience, and without agreeing that such reference is appropriate, Defendant uses the same reference in this Answer. Defendant otherwise denies these allegations.

3. Defendant admits that United States Patent No. 5,859,601 is titled Method and Apparatus for Implementing Maximum Transition Run Codes, lists Jaekyun Moon and Barrett J. Brickner as the purported inventors, and bears an issue date of January 12, 1999. Plaintiff refers to U.S. Patent No. 5,859,601 in the Complaint as “the Coding Patent.” For convenience, and without

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<sup>1</sup> Although the caption on the complaint identifies “Broadcom Inc.” as the defendant, the summons was issued and served on Broadcom Corporation, which is believed to be the entity intended to be named.

1 agreeing that such reference is appropriate, Defendant uses the same reference in this Answer.  
2 Defendant otherwise denies these allegations.

3 4. To the extent the allegations of Paragraph 4 seek to paraphrase or characterize the  
4 contents of a written document, the document speaks for itself and Defendant denies the allegations  
5 to the extent that they are inconsistent with that document. Defendant denies that the allegations  
6 of Paragraph 4 form a complete or accurate characterization of Broadcom Corporation's decision  
7 to enter into the Letter Agreement and therefore denies them. Defendant denies any remaining  
8 allegations set forth in Paragraph 4.

9 5. Defendant admits that Carnegie Mellon University ("CMU") filed a complaint  
10 against LSI Corporation and Avago Technologies U.S. Inc. on July 27, 2018, in the United States  
11 District Court for the Northern District of California, that alleges infringement of method claims  
12 of United States Patent Nos. 6,201,839 and 6,438,180. Defendant admits that CMU is listed as the  
13 assignee of United States Patent Nos. 6,201,839 and 6,438,180 on the face of the patents. To the  
14 extent the allegations of Paragraph 5 seek to paraphrase or characterize the contents of a written  
15 document, the document speaks for itself and Defendant denies the allegations to the extent that  
16 they are inconsistent with that document. To the extent that Paragraph 5 purports to set forth a  
17 legal conclusion or question of law, no response is required. Defendant denies any remaining  
18 allegations set forth in Paragraph 5.

19 6. Defendant admits that Dr. Kavcic is listed as an inventor on the face of U.S. Patent  
20 Nos. 6,201,839 and 6,438,180. Defendant also admits that it became aware that Dr. Kavcic  
21 breached his "Letter Agreement" by providing consulting services to CMU. Defendant admits that,  
22 upon learning of Dr. Kavcic's breach, it asked him to immediately cease and desist any conduct  
23 that underlies such breach. Both Dr. Kavcic and CMU have refused to provide further details  
24 regarding the extent of Dr. Kavcic's breach. Defendant otherwise denies the allegations in  
25 Paragraph 6.

26 7. Denied.  
27  
28

**THE PARTIES**

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8.

9. Defendant admits Broadcom Corporation is a corporation organized under the laws of the State of California and having a principal place of business at 1320 Ridder Park Drive, San Jose, California. To the extent that Paragraph 9 purports to set forth a legal conclusion or question of law, no response is required. Defendant denies any remaining allegations set forth in Paragraph 9.

**JURISDICTION AND VENUE**

10. Defendant admits the Complaint is styled as an action arising under 28 U.S.C. § 2201. Defendant does not have sufficient knowledge to assess Dr. Kavcic's claim as to the amount in controversy, and therefore denies it. Defendant does not contest that the Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 10, and therefore denies them.

11. Defendant does not contest that the Court has personal jurisdiction over Defendant, solely for the purposes of this action. Defendant admits Broadcom Corporation is a corporation organized under the laws of the State of California and having a principal place of business at 1320 Ridder Park Drive, San Jose, California. To the extent that Paragraph 11 purports to set forth a legal conclusion or question of law, no response is required. Defendant denies any remaining allegations set forth in Paragraph 11.

12. Defendant consents to venue in this district, solely for the purposes of this action. Defendant admits Broadcom Corporation is a corporation organized under the laws of the State of California and having a principal place of business at 1320 Ridder Park Drive, San Jose, California. To the extent that Paragraph 12 purports to set forth a legal conclusion or question of law, no response is required. Defendant denies any remaining allegations set forth in Paragraph 12.

**COMMON ALLEGATIONS****Dr. Aleksandar Kavcic**

13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 and therefore denies these allegations.

14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 14, and therefore denies this allegation. Defendant denies that the remaining allegations of Paragraph 14 form a complete and accurate characterization of the technology described and therefore denies them.

15. Denied.

**The Detector Patent Technology**

16. Denied.

17. To the extent the allegations of Paragraph 17 seek to paraphrase or characterize the contents of a written document, the document speaks for itself and Defendant denies the allegations to the extent that they are inconsistent with that document. To the extent that Paragraph 17 purports to set forth a legal conclusion or question of law, no response is required. Defendant otherwise denies these allegations.

18. Defendant admits that United States Patent No. 6,201,839 is titled "Method and Apparatus for Correlation-Sensitive Adaptive Sequence Detection," lists Aleksandar Kavcic and Jose M. F. Moura as the purported inventors, and bears an issue date of March 13, 2001; and that United States Patent No. 6,438,180 is titled "Soft and Hard Sequence Detection In ISI Memory Channels," lists Aleksandar Kavcic and Jose M. F. Moura as the purported inventors, and bears an issue date of August 20, 2002. To the extent the allegations of Paragraph 18 seek to paraphrase or characterize the contents of written documents, the documents speak for themselves and Defendant denies the allegations to the extent that they are inconsistent with those documents. To the extent that Paragraph 18 purports to set forth a legal conclusion or question of law, no response is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 18 and therefore denies these allegations.

1           19. To the extent the allegations of Paragraph 19 seek to paraphrase or characterize the  
2 contents of a written document, the document speaks for itself and Defendant denies the allegations  
3 to the extent that they are inconsistent with that document.

4           20. Defendant admits that the Detector Patents list Dr. Kavcic and Professor Maura  
5 [sic] as the purported inventors. Defendant lacks knowledge or information sufficient to form a  
6 belief as to the truth of the remaining allegations in Paragraph 20 and therefore denies these  
7 allegations.

8           21. Admitted.

9           22. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in Paragraph 22 and therefore denies these allegations.

11           23. Defendant admits that it is aware that the litigation between CMU and Marvell  
12 settled for an amount reported in news articles as \$750,000,000. To the extent the allegations of  
13 Paragraph 23 seek to paraphrase or characterize the contents of a written document, the document  
14 speaks for itself and Defendant denies the allegations to the extent that they are inconsistent with  
15 that document. Defendant denies that the remaining allegations of Paragraph 23 form a complete  
16 and accurate characterization of the Civil Action described and therefore denies these allegations.

17 **The Coding Patent Litigation**

18           24. Defendant admits a Complaint in Civil Action No. 16-cv-02891 styled as an action  
19 arising under Title 35 of the United States Code and alleging infringement of U.S. Patent No.  
20 5,859,601 was filed in the United States District Court for the District of Minnesota by the  
21 University of Minnesota against LSI Corporation and Avago Technologies U.S. Inc. in August of  
22 2016. Defendant admits the case was transferred in 2018 to the Northern District of California.  
23 Defendant denies that the remaining allegations of Paragraph 24 form a complete and accurate  
24 characterization of the Civil Action described and therefore denies these allegations.

25           25. Defendant admits Broadcom Corporation was acquired by Avago Technologies in  
26 2016 and currently operates as a wholly-owned indirect subsidiary of Broadcom Incorporated.  
27 Defendant denies the remaining allegations set forth in Paragraph 25.

26. Defendant admits LSI Corporation is a wholly-owned indirect subsidiary of Broadcom Incorporated. Defendant denies the remaining allegations set forth in Paragraph 26.

27. To the extent the allegations of Paragraph 27 seek to paraphrase or characterize the contents of a written document, the document speaks for itself. Defendant otherwise denies the allegations and substance of this paragraph.

28. To the extent the allegations of Paragraph 28 seek to paraphrase or characterize the contents of a written document, the document speaks for itself. Defendant otherwise denies the allegations and substance of this paragraph.

29. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 29 and therefore denies these allegations.

[REDACTED]

30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30 and therefore denies these allegations.

31. Defendant admits Dr. Lee, in February of 2016, was a vice president of Broadcom Incorporated. Defendant admits Dr. Yang was a former student of Dr. Kavcic and was employed by LSI in November 2016. Defendant admits that it provided research funding to Dr. Kavcic while he was at the University of Hawaii. Defendant otherwise denies the allegations of Paragraph 31.

32. Defendant admits that a copy of a Letter Agreement between Broadcom Corporation and Dr. Kavcic dated November 21, 2016, is included as Exhibit B to the Complaint. Defendant denies the remaining allegations of Paragraph 32.

33. Defendant admits that Broadcom Corporation, along with other entities, filed an amicus brief in *Carnegie Mellon Univ. v. Marvell Tech. Grp., Ltd.*, Federal Circuit Appeal No. 2014-1492. Defendant denies the remaining allegations set forth in Paragraph 33.

34. Denied.

35. Defendant denies that the allegations of Paragraph 35 provide a complete and accurate characterization of the work performed under the terms of the Letter Agreement and therefore denies them.

1 36. Denied.

2 37. Denied.

3 38. Paragraph 38 sets forth a legal conclusion; no response is required.

4 39. Denied.

5 40. To the extent the allegations of Paragraph 40 seek to paraphrase or characterize the  
6 contents of a written document, the document speaks for itself and Defendant denies the allegations  
7 to the extent that they are inconsistent with that document. To the extent that Paragraph 40 purports  
8 to set forth a legal conclusion or question of law, no response is required. Defendant denies the  
9 remaining allegations set forth in Paragraph 40.

10 41. To the extent the allegations of Paragraph 41 seek to paraphrase or characterize the  
11 contents of a written document, the document speaks for itself and Defendant denies the allegations  
12 to the extent that they are inconsistent with that document. To the extent that Paragraph 41 purports  
13 to set forth a legal conclusion or question of law, no response is required. Defendant denies the  
14 remaining allegations set forth in Paragraph 41.

15 42. To the extent the allegations of Paragraph 42 seek to paraphrase or characterize the  
16 contents of a written document, the document speaks for itself and Defendant denies the allegations  
17 to the extent that they are inconsistent with that document. To the extent that Paragraph 42 purports  
18 to set forth a legal conclusion or question of law, no response is required. Defendant denies the  
19 remaining allegations set forth in Paragraph 42.

20 **The Detector and Coding Technologies are Distinct**

21 43. To the extent the allegations of Paragraph 43 seek to paraphrase or characterize the  
22 contents of a written document, the document speaks for itself and Defendant denies the allegations  
23 to the extent that they are inconsistent with that document. To the extent that Paragraph 43 purports  
24 to set forth a legal conclusion or question of law, no response is required. Defendant denies the  
25 remaining allegations set forth in Paragraph 43.

26 44. Defendant denies that the allegations of Paragraph 44 provide a complete and  
27 accurate characterization of the technology described and therefore denies them.  
28

**The Detector Patent Litigation**

45. Defendant denies the allegations in the first sentence of Paragraph 45. Defendant admits that it became aware that Dr. Kavcic breached his “Letter Agreement” by providing consulting services to CMU. Defendant admits that, upon learning of Dr. Kavcic’s breach, it asked him to immediately cease and desist any conduct that underlies such breach. Both Dr. Kavcic and CMU have refused to provide further details regarding the extent of Dr. Kavcic’s breach. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 45.

46. Defendant admits that it became aware in October 2019 that Dr. Kavcic breached his “Letter Agreement” by providing consulting services to CMU. Defendant admits that, upon learning of Dr. Kavcic’s breach, it asked him to immediately cease and desist any conduct that underlies such breach. Both Dr. Kavcic and CMU have refused to provide further details regarding the extent of Dr. Kavcic’s breach. Defendant denies that the allegations of Paragraph 46 form a complete and accurate characterization of the discussions described and therefore denies them.

47. Defendant denies that the allegations in the first sentence of Paragraph 47 form a complete and accurate characterization of LSI’s assertions and therefore denies them. Defendant denies the allegations in the second sentence of Paragraph 47.

48. Defendant admits that LSI’s counsel notified Dr. Kavcic that consulting for CMU in connection with its litigation against LSI was a violation of the Letter Agreement, and requested that he preserve all records relating to such consulting. Defendant otherwise denies the remaining allegations of Paragraph 48.

49. Defendant admits that LSI’s counsel notified Dr. Kavcic that providing assistance to CMU’s counsel in connection with the deposition of Dr. Emina Soljanin was a violation of the Letter Agreement, and requested that he leave the deposition room. Defendant otherwise denies the remaining allegations of Paragraph 49.

50. Denied.

51. Denied.

1 52. Denied.

2 **COUNT I – DECLARATORY JUDGMENT OF**  
3 **NON-BREACH OF LETTER AGREEMENT**

4 53. Defendant admits that it put Dr. Kavcic and CMU on notice of Dr. Kavcic’s breach  
5 of the Letter Agreement. Defendant denies the remaining allegations of Paragraph 53.

6 54. Denied.

7 55. Denied.

8 56. Defendant admits that there is a “substantial and continuing justiciable controversy  
9 between the parties.” Defendant denies that such controversy is based on “Dr. Kavcic’s non-breach  
10 of the Letter Agreement.” Defendant otherwise denies the remaining allegations of paragraph 56.

11 57. Denied.

12 To the extent that any response to the requested relief in the Complaint is required,  
13 Defendant denies that Aleksandar Kavcic, Ph.D., is entitled to any of the requested relief, including  
14 that specified in paragraphs A through D of the Complaint.

15 **DENIAL OF FACTS NOT ADMITTED**

16 Except as expressly admitted above, Defendant denies each and every allegation of the  
17 Complaint.

18 **DEFENSES**

19 Subject to its responses above, and upon information and belief, Defendant alleges and  
20 asserts the following defenses in response to the allegations of the Complaint. Regardless of how  
21 such defenses are listed herein, Defendant undertakes the burden of proof only as to those defenses  
22 that are deemed affirmative defenses as a matter of law.

23 1. Dr. Kavcic’s Complaint fails, in whole or in part, to state a claim upon which relief  
24 may be granted against Defendant.

25 2. Dr. Kavcic’s Complaint is barred, in whole or in part, by equity, including waiver,  
26 estoppel, reliance, withholding, or offset.

27 3. Dr. Kavcic’s Complaint is barred by his failure to mitigate its damages, if any.

Defendant reserves the right to assert other defenses it learns of through discovery.

Broadcom Corporation (“Broadcom” or “Counterclaimant”) brings these counterclaims against Aleksandar Kavcic, Ph.D. (“Dr. Kavcic”) as follows. Counterclaimant incorporates by reference above paragraphs 1-57.

2. Dr. Kavcic is a natural person who, upon information and belief, at all times relevant to this litigation has resided in Austin, Texas and is a resident of the State of Texas.

7. Venue is proper in this district at least because a substantial part of the events or omissions giving rise to this counterclaim occurred in this district.

## GENERAL ALLEGATIONS

**Dr. Kavcic was Retained as a Consultant by Broadcom on Patents Related to Sequence Detectors Operating at High Densities in Storage Systems**

8. The case captioned *Regents of the University of Minnesota v. LSI Corp., et al.*, Case No. 16-cv-02891 was filed in the District of Minnesota and was transferred in 2018 to the Northern District of California (“UM Litigation”).

9. Upon learning of the existence of the UM litigation, and without solicitation by Broadcom, Dr. Kavcic volunteered to assist Broadcom with the defense of that litigation.

10. On information and belief, as part of such assistance, Dr. Kavcic was aware that he would be exposed to Broadcom’s confidential and/or privileged information in connection with the UM litigation and the products accused of infringement in that case.

11. Dr. Kavcic’s offer to assist Broadcom occurred after the February 17, 2016 public announcement of the settlement of the Carnegie Mellon University litigation with Marvell.

12. On or around November 21, 2016, Dr. Kavcic was retained as a consultant by Broadcom in the UM Litigation.

13. On information and belief, at the time he entered into the Letter Agreement, Dr. Kavcic knew that Broadcom was the parent company of LSI Corporation (“LSI”), which was a significant player in what the Complaint characterizes as the “computer disk drive business.” Dr. Kavcic further knew that the LSI products accused of infringement in the UM litigation were semiconductor products that include read channel functionality.

14. Notwithstanding such knowledge, Dr. Kavcic agreed to be retained as a consultant by Broadcom, pursuant to the terms and conditions of the Letter Agreement, a copy of which was attached under seal as **Exhibit B** to the Complaint (“Letter Agreement”).

15. The Letter Agreement provides:

[REDACTED]

1           16.     The patent-in-suit in the UM Litigation, U.S. Patent No. 5,859,601 (the “’601  
2 Patent), is related to “sequence detectors operating at high densities in storage systems.” ’601  
3 Patent, Abstract.

4           17.     Dr. Kavcic had discussions and direct interactions with Broadcom’s counsel for the  
5 UM Litigation, and was exposed to confidential and privileged information, including litigation  
6 strategy (for example, pertaining to claim construction) as part of his consulting engagement with  
7 Broadcom in the UM Litigation.

8           18.     On information and belief, Dr. Kavcic willingly received Broadcom’s confidential  
9 information in the UM Litigation, despite his, and Carnegie Mellon University’s (“CMU”), plan  
10 to sue LSI (Broadcom’s wholly-owned subsidiary) for patent infringement relating to the same  
11 accused products and architectures at issue there, *i.e.*, read-channel architectures using detectors  
12 that operate in high density storage systems.

13           19.     On information and belief, at the time Dr. Kavcic entered into the Letter  
14 Agreement, he believed that the accused read channel architectures in the UM litigation infringed  
15 the ’839 and ’180 patents.

16           20.     Dr. Kavcic never communicated his belief to Defendant or LSI that LSI’s read  
17 channel architectures accused in the UM litigation infringed the ’839 and ’180 patents

18           21.     Despite his interactions with Broadcom, Dr. Kavcic’s exposure to protected and  
19 confidential information, and his receipt of financial compensation, at no point prior to or during  
20 the pendency of his agreement (until October 2019), did Dr. Kavcic communicate to Broadcom  
21 his intent to consult with CMU in its planned patent infringement suit against LSI.

22     **Dr. Kavcic Breached the Letter Agreement**

23           22.     In July 2018, CMU sued LSI and Avago Technologies U.S. Inc. (“Avago”) in Case  
24 No. 3:18-cv-04571-JD in the United States District Court for the Northern District of California  
25 (“CMU Litigation”).

26           23.     The patents at suit in the CMU Litigation, U.S. Patent No. 6,201,839 (the “’839  
27 Patent”) and U.S. Patent No. 4,438,180 (the “’180 Patent”), state that they relate to “detecting a  
28

1 sequence of adjacent signal samples stored on a high density magnetic recording device.” ’839  
2 Patent, 11:42-44; ’180 Patent, 11:11-13.

3 24. The same law firm, K&L Gates, LLP, represents CMU in the CMU Litigation and  
4 the University of Minnesota in the UM litigation.

5 25. On information and belief, Dr. Kavcic has consulted with CMU and its counsel on  
6 the subject matter of the CMU Litigation, the ’839 Patent, and the ’180 Patent. For example, Dr.  
7 Kavcic admits in Paragraph 45 of the Complaint that he “acts as a consultant to CMU on the  
8 [CMU] litigation.”

9 26. On information and belief, Dr. Kavcic continues to consult with CMU on the  
10 subject matter of the CMU Litigation, the ’839 Patent, and the ’180 Patent.

11 27. On information and belief, as part of his “consulting” with CMU on the CMU  
12 litigation, Dr. Kavcic has provided opinions relating to the technology at issue in the UM  
13 Litigation, which includes technology for “detecting a sequence of adjacent signal samples stored  
14 on a high density magnetic recording device.”

15 28. Pursuant to the terms of the Letter Agreement, Dr. Kavcic agreed [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 29. The subject matter of the Letter Agreement includes at least the subject matter and  
19 associated technology disclosed in the ’601 Patent: “sequence detectors operating at high densities  
20 in storage systems.” ’601 Patent, Abstract.

21 30. The CMU Litigation includes allegations that various sequence detectors operating  
22 at high densities in storage systems infringe various claims of the ’839 Patent and the ’180 Patent,  
23 which are related to “detecting a sequence of adjacent signal samples stored on a high density  
24 magnetic recording device.” ’839 Patent, 11:42-44; ’180 Patent, 11:11-13.

25 31. In fact, the accused products and architectures in the UM Litigation overlap with  
26 the accused architectures in the CMU Litigation.

1 32. Broadcom did not provide “written consent” for Dr. Kavcic to provide such  
2 consulting services to CMU.

3 33. [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 34. [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 35. [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 36. [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 **Dr. Kavcic was Informed Consulting with CMU on the CMU Litigation is a Breach of the**  
16 **Letter Agreement**

17 37. CMU noticed the deposition of Dr. Emina Soljanin for October 18, 2019. Dr.  
18 Soljanin was retained by LSI as an expert to provide claim construction opinions in the CMU  
19 Litigation.

20 38. Dr. Kavcic appeared with CMU’s counsel at the start of the deposition, and  
21 appeared to be providing consulting services to CMU in violation of his Letter Agreement with  
22 Broadcom.

23 39. Broadcom insisted that Dr. Kavcic leave the deposition and cease all “consulting”  
24 activities that violate his Letter Agreement.

25 40. Dr. Kavcic left the deposition room but remained on the premises. On information  
26 and belief, Dr. Kavcic continued to provide consulting services to CMU’s counsel throughout the  
27 course of the deposition.  
28

1           41.     On information and belief, Dr. Kavcic has been consulting with CMU on the subject  
2 matter of the CMU Litigation, the '839 Patent, and the '180 Patent, since at least as early as July  
3 2018, when CMU filed the CMU Litigation.

4           42.     Broadcom has asked Dr. Kavcic and CMU to provide information sufficient to  
5 understand the full extent of Dr. Kavcic's breach, but such information has not been provided.

6           43.     Broadcom has repeatedly informed Dr. Kavcic and CMU that the Letter Agreement  
7 does not preclude Dr. Kavcic from providing factual testimony in the CMU litigation. However,  
8 Broadcom did not consent to Dr. Kavcic providing expert or consulting services to CMU.

9                                   **COUNT I – BREACH OF CONTRACT**

10          44.     Broadcom re-alleges and incorporates by reference the foregoing paragraphs of the  
11 Counterclaims as though set forth in full herein.

12          45.     Dr. Kavcic entered into the Letter Agreement with Broadcom.

13          46.     Broadcom performed its obligations under the Letter Agreement.

14          47.     [REDACTED]  
15 [REDACTED]  
16 [REDACTED]

17          48.     [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20          49.     [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

23          50.     [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

26          51.     Dr. Kavcic breached his obligations under the Letter Agreement by assisting CMU  
27 with the CMU Litigation  
28

52. Dr. Kavcic continues to breach his obligations under the Letter Agreement by continuing to assist CMU with the CMU Litigation.

53. As a result of Dr. Kavcic's breach of contract, Broadcom was harmed and has and will continue to suffer damage.

**COUNT II – BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

54. Broadcom re-alleges and incorporates by reference the foregoing paragraphs of the Counterclaims as though set forth in full herein.

55. In every contract or agreement there is an implied promise of good faith and fair dealing.

56. Dr. Kavcic entered into the Letter Agreement with Broadcom.

57. Broadcom performed its obligations under the Letter Agreement.

58. [REDACTED]

59. [REDACTED]

60. [REDACTED]

61. [REDACTED]

62. Dr. Kavcic breached his covenant of good faith and fair dealing under the Letter Agreement by assisting CMU with the CMU Litigation.

63. Dr. Kavcic continues to breach his covenant of good faith and fair dealing under the Letter Agreement by assisting CMU with the CMU Litigation.

64. As a result of Dr. Kavcic's breach, Broadcom was harmed and has and will continue to suffer damage.

**PRAYER FOR RELIEF**

WHEREFORE, Counterclaimant prays for judgment against Dr. Kavcic as appropriate to each cause of action alleged, as follows:

1. For damages according to proof at trial, including without limitation general, special, economic, incidental, and consequential damages;
2. For injunctive relief;
3. For declaratory relief;
4. For attorneys' fees, as permitted by law;
5. For costs of suit;
6. For pre- and post-judgment interest at the applicable legal rate of interest; and
7. For such other, further relief as the Court may deem just and proper.

Dated: May 22, 2020

Respectfully submitted,

KING & SPALDING LLP

By: /s/ Steven J. Rizzi

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Attorneys for Broadcom Corporation

**Proof of Service of Electronic Filing**

I hereby certify that on May 22, 2020, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the Electronic Service List for this case.

/s/ Steven J. Rizzi

Steven J. Rizzi